

Remarks

This Amendment is responsive to the non-final Office Action mailed on November 15, 2007. Claims 1-3, 5, and 8-20 are pending. Claims 1, 9, 10, 12, 13, 16, and 17 have been amended. Claim 4 has been cancelled. Claims 18-20 are new. In view of the following remarks and the forgoing amendments, Applicants respectfully submit that this application is in complete condition for allowance and request reconsideration of the application in this regard.

Rejection of Claims under 35 U.S.C. § 102(b)

Claims 1-3, 8, 10, 12-13 and 15 over King

Claims 1-3, 8, 10, 12-13, and 15 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 3,857,989 to King (hereinafter *King*). Claims 1-3, 8, 10, 12, 13, and 15 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 5,004,619 to Kobayashi et al. (hereinafter *Kobayashi*). Applicants have amended claim 1 to add the subject matter of former dependent claim 4, which was not subject to these grounds of rejection. Independent claim 13 has been amended in a similar manner. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw these rejections.

Claims 1-5, 8-10, 12-13, 15, and 17 over Volkl

Claims 1-5, 8-10, 12, 13, 15, and 17 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 6,390,799 to Volkl et al. (hereinafter *Volkl*). Of the rejected claims, claims 1 and 13 represent independent claims. The Examiner contends that *Volkl* shows all the elements of the rejected claims. Applicants respectfully disagree with this contention.

In contrast to Applicants' independent claim 1, *Volkl* fails to teach a "forming space bounded by a wall for forming the mass", that the wall includes "a slit", and that the cutting device has "a cutter that is at least partially introducible through the slit into the forming space." Although the device taught by *Volkl* has a forming space (shaping tube 55, Fig. 3), this forming space terminates where the cutting edge 65, Fig. 3 and the calibration plate 47 are located. In the Office Action, the Examiner fails to identify any object in *Volkl* that is correlated with a slit but instead refers the Applicants generally to Figure 3 of *Volkl*. As best shown in Figures 1 and 2 of *Volkl*, there is no slit in the shaping tube body 53 through which any cutting device could be

introducible. In contrast, the calibration plate 47 extends entirely across the shaping tube body 53.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. Because *Volkl* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that is at least partially introducible through the slit into the forming space”, *Volkl* fails to anticipate Applicants’ independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2, 3, 5, 8-10, 12, and 17 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of the dependent claims 2, 3, 5, 8-10 and 12 recites a unique combination of elements not disclosed or suggested by *Volkl*.

Independent claim 13 is patentable for at least the same or similar reasons as independent claim 1, as remarked above. Specifically, *Volkl* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that can be introduced through the slit at least partially into the forming space”. Because claim 15 depends from independent claim 13, Applicants submit that this claim is also patentable for at least the same reasons discussed above. Furthermore, dependent claim 15 recites a unique combination of elements not taught, disclosed or suggested by *Volkl*. Specifically, *Volkl* fails to disclose that a conveyor belt that is discontinuously operable cooperating with the introductory motion of the cutter. Consequently, Applicants respectfully request that the rejection of claims 13 and 15 be withdrawn.

Claims 1-5, 8-13, and 16 over Ackerman

Claims 1-5, 8-13, and 16 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 2,500,973 to Ackerman et al. (hereinafter *Ackerman*). Of the rejected claims, claims 1 and 13 represent independent claims. The Examiner contends that *Ackerman* shows all the elements of the rejected claims. Applicants respectfully disagree with the Examiner’s contention.

In contrast to Applicants’ independent claim 1, *Ackerman* fails to teach a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that is at least partially introducible through the slit into the forming space.”

Ackerman discloses an opening formed by flange 14 and annulus 30 (Fig. 1) in which the cutting device 22 is movable. However, two separate parts are involved to form the opening for the cutting device 22 and not, as set forth in claim 1, a slit in the wall that bounds the forming space, including a slit”.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. Because *Ackerman* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that is at least partially introducible through the slit into the forming space”, *Ackerman* fails to anticipate Applicants’ independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2, 3, 5, 8-12, and 16 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of these dependent claims recites a unique combination of elements not disclosed or suggested by *Ackerman*.

Independent claim 13 is patentable for at least the same or similar reasons as independent claim 1, as remarked above. Specifically, *Ackerman* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that can be introduced through the slit at least partially into the forming space”. Consequently, Applicants respectfully request that the Examiner withdraw rejection of independent claim 13.

Claims 1-5, 8-10, 12-13, and 15 over Rosenstone

Claims 1-5, 8-10, 12-13, and 15 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 2,101,755 to Rosenstone et al. (hereinafter *Rosenstone*). Of the rejected claims, claims 1 and 13 represent independent claims. The Examiner contends that *Rosenstone* shows all the elements of the rejected claims. Applicants respectfully disagree with this contention.

In contrast to Applicants’ independent claim 1, *Rosenstone* fails to teach a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that is at least partially introducible through the slit into the forming space.” *Rosenstone* formed by two annular plates 9 and 10 (Fig. 1) together with spacer plates 22, Fig. 2. However, similar to the disclosure in *Ackerman*, two separate parts are involved to

form the opening for the cutting device 22 and not, as set forth in claim 1, a slit in the wall that bounds the forming space.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. Because *Rosenstone* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that is at least partially introducible through the slit into the forming space”, *Rosenstone* fails to anticipate Applicants’ independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2, 3, 5, 8-10, and 12 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of the dependent claims 2, 3, 5, 8-10, and 12 recites a unique combination of elements not disclosed or suggested by *Rosenstone*.

Independent claim 13 is patentable for at least the same or similar reasons as independent claim 1, as remarked above. Specifically, *Rosenstone* fails to disclose a “forming space bounded by a wall for forming the mass”, that the wall includes “a slit”, and that the cutting device has “a cutter that can be introduced through the slit at least partially into the forming space”. Because claim 15 depends from independent claim 13, Applicants submit that this claim is also patentable for at least the same reasons discussed above. Furthermore, this claim recites a unique combination of elements not taught, disclosed or suggested by *Rosenstone*. Consequently, Applicants respectfully request that the rejection of this claim be withdrawn.

Claim Rejection under 35 U.S.C. § 103(a)

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *King* in view of U.S. Patent No. 6,797,213 to Bortone et al. (hereinafter *Bortone*). *Bortone* fails to remedy the deficiencies of *King*. Because claim 11 depends from independent claim 1, Applicants submit this claim is also patentable for at least the same reasons discussed above. Furthermore, dependent claim 11 recites a unique combination of elements not disclosed or suggested by the combination of *King* with the secondary reference *Bortone*. Consequently, Applicants respectfully request that the rejection of this claim be withdrawn.

Claims 11 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Volk*. Because claims 11 and 16 depend from independent claim 1, Applicants submit this claim

is also patentable for at least the same reasons discussed above. Furthermore, dependent claims 11 and 16 recites a unique combination of elements not disclosed or suggested by the proposed modification of *Volkl*. Specifically, *Volkl* discloses alternative design variations of the cutter, e.g. in col. 4, lines 45 to 60. However, no embodiment of this device is further described in the text nor shown in the figures that would have led a person having ordinary skill in the art to have made the modifications suggested by the Examiner. Consequently, Applicants respectfully request that the Examiner withdraw this rejection.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Volkl* in view of U.S. Patent No. 5,230,267 to Abler (hereinafter *Abler*). *Abler* fails to remedy the deficiencies of *Volkl*. Because claim 14 depends from independent claim 13, Applicants submit this claim is also patentable for at least the same reasons discussed above. Furthermore, dependent claim 14 recites a unique combination of elements not disclosed or suggested by the combination of *Volkl* with the secondary reference *Abler*. Specifically, Figure 1 of *Abler* discloses aftershaping done by the outer surface 14 of roller 11 against which the separated slices or portions are pressed by a vacuum created in the interior of the roller. However, a smoothing belt as set forth in dependent claim 14 is not disclosed or suggested by *Abler*. Consequently, Applicants respectfully request that the rejection of this claim be withdrawn.

New Claims:

Claims 18-20 have been submitted as new claims that recite unique combinations of elements not taught, disclosed or suggested by the art of record. Claims 18 and 19 depend from independent claim 13, which is patentable for reasons discussed hereinabove. Claim 20 is a new independent method claim.

Conclusion

Applicants have made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing amendments and remarks, this application is submitted to be in complete condition for allowance. Accordingly, a timely notice of allowance to this effect is earnestly solicited. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicants do not believe fees are due in connection with filing this communication, other than a three-month extension of time. If, however, any petition or additional fees are necessary as a result of this communication, the Commissioner is hereby authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,
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